

# HOUSE BILL No. 1346

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 9-13-2-42; IC 9-23-2-14; IC 9-23-6.

**Synopsis:** Motor vehicle manufacturers, distributors, and dealers. Revises the definition of "dealer" to include a person who sells at least five vehicles a year to the general public for delivery in Indiana. (Current law defines a "dealer" as a person who sells at least 12 vehicles a year.) Provides that a license to buy or sell motor vehicles may be denied, suspended, or revoked and a civil penalty of not more than \$1,000 may be imposed for the violation of rules adopted by the bureau of motor vehicles regarding the sale, titling, or registration of vehicles. Provides that a civil penalty of not more than \$15,000 may be imposed by a court for a violation of laws relating to vehicle manufacturers, distributors, and dealers. Allows the bureau of motor vehicles and the attorney general to recover costs and reasonable  
(Continued next page)

**Effective:** July 1, 1999.

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**Dobis, Burton**

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January 12, 1999, read first time and referred to Committee on Commerce and Economic Development.

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Digest Continued

attorney's fees in a civil action brought relating to vehicle manufacturers, distributors, and dealers. Makes a technical correction to an internal reference.

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Introduced

First Regular Session 111th General Assembly (1999)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 1998 General Assembly.

## HOUSE BILL No. 1346

A BILL FOR AN ACT to amend the Indiana Code concerning motor vehicles.

*Be it enacted by the General Assembly of the State of Indiana:*

- 1       SECTION 1. IC 9-13-2-42 IS AMENDED TO READ AS  
2       FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 42. (a) "Dealer" means,  
3       except as otherwise provided in this section, a person who sells to the  
4       general public for delivery in Indiana at least ~~twelve (12)~~ **five (5)**  
5       vehicles each year. A dealer must have an established place of business  
6       that meets the minimum standards prescribed by the bureau under rules  
7       adopted under IC 4-22-2.  
8       (b) The term does not include the following:  
9       (1) A receiver, trustee, or other person appointed by or acting  
10      under the judgment or order of a court.  
11      (2) A public officer while performing official duties.  
12      (3) A person who is a dealer solely because of activities as a  
13      transfer dealer.  
14      (c) "Dealer", for purposes of IC 9-31, means a person that sells to  
15      the general public for delivery in Indiana at least six (6) boats per year.

1999

IN 1346—LS 7579/DI 96+



SECTION 2. IC 9-23-2-14 IS AMENDED TO READ AS  
FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 14. (a) A license issued  
under this chapter may be denied, suspended, or revoked for any of the  
following:

(1) Material misrepresentation in the application for the license  
or other information filed with the commissioner.

(2) Lack of fitness under the standards set forth in this article or  
a rule adopted by the commissioner under this article.

(3) Willful failure to comply with the provisions of this article or  
a rule adopted by the commissioner under this article.

(4) Willful violation of a federal or state law relating to the sale,  
distribution, financing, or insuring of motor vehicles.

(5) Engaging in an unfair practice as set forth in this article or a  
rule adopted by the commissioner under this article.

(6) Violating IC 23-2-2.7.

**(7) Violation of any rule adopted by the bureau regarding:**

**(A) sale of vehicles;**

**(B) titling of vehicles; or**

**(C) registration of vehicles.**

(b) Except as provided in subsection (d), the procedures set forth in  
IC 4-21.5 govern the denial, suspension, or revocation of a license and  
a judicial review. However, if the bureau denies, suspends, or revokes  
a license issued or sought under this article, the affected person may  
file an action in the circuit court of Marion County, Indiana, or the  
circuit court of the Indiana county in which the person's principal place  
of business is located, seeking a judicial determination as to whether  
the action is proper. An action may not take effect until thirty (30) days  
after the commissioner's determination has been made and a notice of  
the determination served upon the affected person. The filing of an  
action as described in this section within the thirty (30) day period is  
an automatic stay of the commissioner's determination.

(c) Revocation or suspension of a license of a manufacturer, a  
distributor, a factory branch, a distributor branch, a dealer, or an  
automobile auctioneer may be limited to one (1) or more locations, to  
one (1) or more defined areas, or only to certain aspects of the business.

(d) A license may be denied, suspended, or revoked for violating  
IC 9-19-1. IC 4-21.5-4 governs the denial, suspension, or revocation of  
a license under this subsection. The bureau may issue a temporary  
order to enforce this subsection.

**(e) In addition to the denial, suspension, or revocation of a  
license, the bureau may impose a civil penalty in an amount not to  
exceed one thousand dollars (\$1,000) for each violation of**



subsection (a)(7). Recovery of the civil penalty may be enforced through IC 9-23-6-7 and IC 9-23-6-8.

SECTION 3. IC 9-23-6-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 4. ~~A person who violates this article or a rule or order of the bureau issued under this article is subject to a civil penalty of not less than fifty dollars (\$50) and not more than one thousand dollars (\$1,000)~~ **In addition to the criminal penalty under section 1 of this chapter, a person who is found, by a preponderance of the evidence, in a civil court to have violated this article is subject to a civil penalty of not more than fifteen thousand dollars (\$15,000) for each day of violation and for each act of violation, as determined by the court. All civil penalties recovered under this article shall be paid to the state.**

SECTION 4. IC 9-23-6-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 7. Whenever a person violates this article or a rule or order of the bureau issued under this article, the bureau may institute a civil action in any circuit or superior court of Indiana for injunctive relief to restrain the person from continuing the activity or for the assessment and recovery of the civil penalty provided in section 4 of this chapter, or both. **The bureau may recover the cost of the suit, including reasonable attorney's fees.**

SECTION 5. IC 9-23-6-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 8. At the request of the bureau, the attorney general shall institute and conduct an action in the name of the state for:

- (1) injunctive relief or to recover the civil penalty provided by section 4 of this chapter;
- (2) the injunctive relief provided by section ~~6~~ 7 of this chapter; or
- (3) both.

**The attorney general may recover the cost of the suit, including reasonable attorney's fees.**



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